

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

JOSE TRINIDAD HERNANDEZ-OLEA,

Defendant.

CASE NO. 4:03CR3132

ORDER

This matter is before the Court on the Notice of Appeal (Filing No. 115) and the Application to Proceed In Forma Pauperis (Filing No. 118) filed by the Defendant. It appears that the Defendant desires to appeal the court's Order entered on July 12, 2006, denying the Defendant's request for free transcripts of his plea and sentencing hearings in anticipation of the Defendant filing a section 2255 motion.

Federal Rule of Appellate Procedure 24(a)(3) provides that a party who was determined to be financially unable to obtain an adequate defense in a criminal case may proceed on appeal in forma pauperis without further authorization unless the district judge certifies that the appeal is not taken in good faith. It is well-established in the Eighth Circuit that a request for a free transcript prior to the filing of a section 2255 motion is premature. See Chapman v. United States, 55 F.3d 390 (8th Cir. 1995).

Accordingly,

IT IS ORDERED that:

1. The undersigned District Judge certifies that the Defendant's appeal is not taken in good faith.
2. The Defendant's application to proceed in forma pauperis on appeal (Filing No. 118) is denied.
3. The Clerk of the Court shall send a copy of this Order to the Defendant at the address shown on Filing No. 115.

July 31, 2006.

BY THE COURT:

s/ Richard G. Kopf
United States District Judge